

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-CV-24838-LENARD/Elfenbein

RAMINDESIGN, LLC,

Plaintiff,

v.

**JACEK SKARZYNSKI, and
OLGA SKARZYNSKI,**

Defendants.

_____ /

REPORT AND RECOMMENDATION

THIS CAUSE is before the Court on Plaintiff Ramindesign, LLC’s (“Plaintiff”) Motion to Strike Defendants Jacek Skarzynski and Olga Skarzynski’s (collectively “Defendants”) Affirmative Defenses and Supporting Memorandum of Law (the “Motion”), ECF No. [88]. The Honorable Joan A. Lenard has referred the Motion to me for a report and recommendation. *See generally* ECF No. [46]. In the Motion, Plaintiff seeks to strike fourteen of the sixteen affirmative defenses Defendants asserted in their Amended Answer or, in the alternative, asks the Court to strike the Amended Answer’s twelfth affirmative defense with prejudice as “a legal nullity” and treat the remaining affirmative defenses as specific denials. *See* ECF No. [88] at 1.

Before I could issue a report on the Motion, Defendants filed a Second Amended Answer and Affirmative Defenses. *See* ECF No. [120]. *See, e.g., Cagle v. Nat’l Indem. Co. of the S.*, No. 23-CV-140, 2024 WL 4513028, at *1 n. 2 (N.D. Ga. May 15, 2024) (“Because the Court intends to permit Old Republic to amend its answer, Plaintiff’s Motion to Strike is moot.”); *PNC Bank, Nat. Ass’n v. LucMaur, LLC*, No. 14-CV-248, 2014 WL 5780386, at *1 (M.D. Fla. Nov. 5, 2014) (noting that “the filing of an amended answer would moot Plaintiff[’]s motion to strike”). As the

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Motion seeks to strike affirmative defenses from the Amended Answer, which is no longer the operative pleading, *see generally* ECF No. [71], the issues in the Motion are moot. Accordingly, I respectfully **RECOMMEND** that Plaintiff Ramindesign, LLC's Motion to Strike Defendants Jacek and Olga Skarzynski's Affirmative Defenses, ECF No. [88], be **DENIED** as moot and without prejudice.

Pursuant to Local Magistrate Rule 4(b), the parties have fourteen (14) days from the date of being served with a copy of this Report and Recommendation within which to file written objections, if any, with the Honorable Joan A. Lenard, United States District Judge. Failure to timely file objections shall bar the parties from a *de novo* determination by the District Judge of an issue covered in the Report and shall bar the parties from attacking on appeal unobjected-to factual and legal conclusions contained in this Report except upon grounds of plain error if necessary in the interest of justice. *See* 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989); 11th Cir. R. 3-1.

DONE and ORDERED in Chambers in Miami, Florida on November 4, 2024.


MARTY FULGUERA ELFENBEIN
UNITED STATES MAGISTRATE JUDGE

cc: All Counsel of Record